

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

ZACHARY DON GILLASPIE,)
Plaintiff,) CIVIL ACTION NO.
vs.) 3:16-CV-2765-G (BH)
ROBERT WARD, et al.,)
Defendants.)

**ORDER ACCEPTING FINDINGS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

After reviewing all relevant matters of record in this case, including the findings, conclusions, and recommendation of the United States Magistrate Judge and any objections thereto, in accordance with 28 U.S.C. § 636(b)(1), the court is of the opinion that the findings and conclusions of the magistrate judge are correct and they are accepted as the findings and conclusions of the court. For the reasons stated in the findings, conclusions, and recommendation of the United States Magistrate Judge, the plaintiff's *Fed. R. Civ. P. 60(b) [overall]* motion, received on May 7, 2019 (docket entry 46), is **CONSTRUED** as a successive petition and **TRANSFERRED** to the United States Court of Appeals for the Fifth Circuit. The clerk of court is **DIRECTED** to: (1) terminate the motion in this civil rights case; (2) open a new habeas case for administrative purposes only; (3) docket the motion in that new case as a § 2254 petition filed on May 7, 2019; (4) directly assign the new case to the same district judge and magistrate judge as in this case; (5) file a copy of the findings, conclusions, and recommendation of the United States Magistrate Judge, and the order accepting the

findings, conclusions, and recommendation in the new case; and (6) without further judicial action, immediately **TRANSFER** the newly opened § 2254 action to the United States Court of Appeals for the Fifth Circuit under *Henderson v. Haro*, 282 F.3d 862, 864 (5th Cir. 2002) and *In re Epps*, 127 F.3d 364, 365 (5th Cir. 1997).

SO ORDERED.

July 29, 2019.


A. Joe Fish
A. JOE FISH
Senior United States District Judge